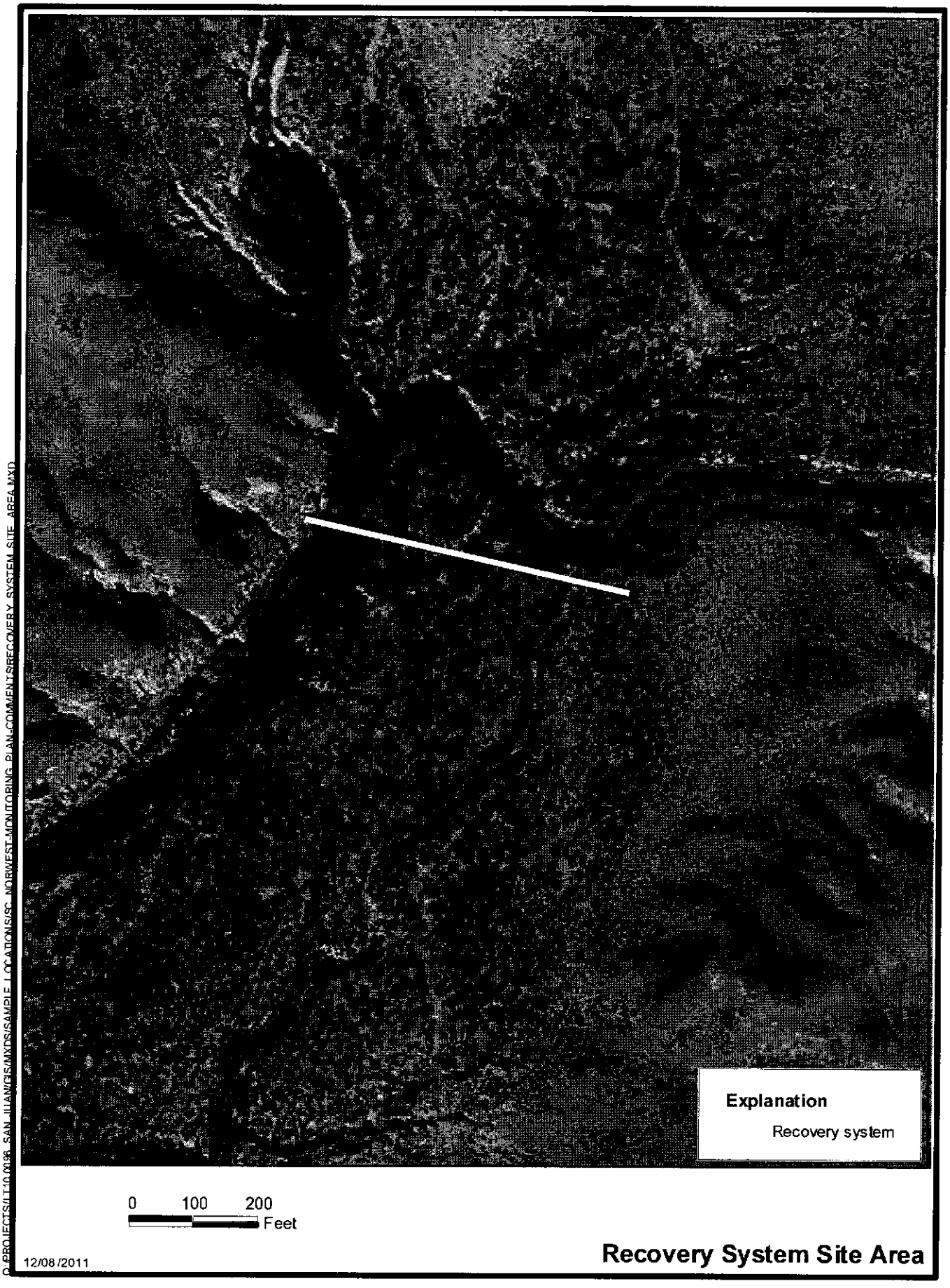
EXHIBIT 1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Recovery System Site Area
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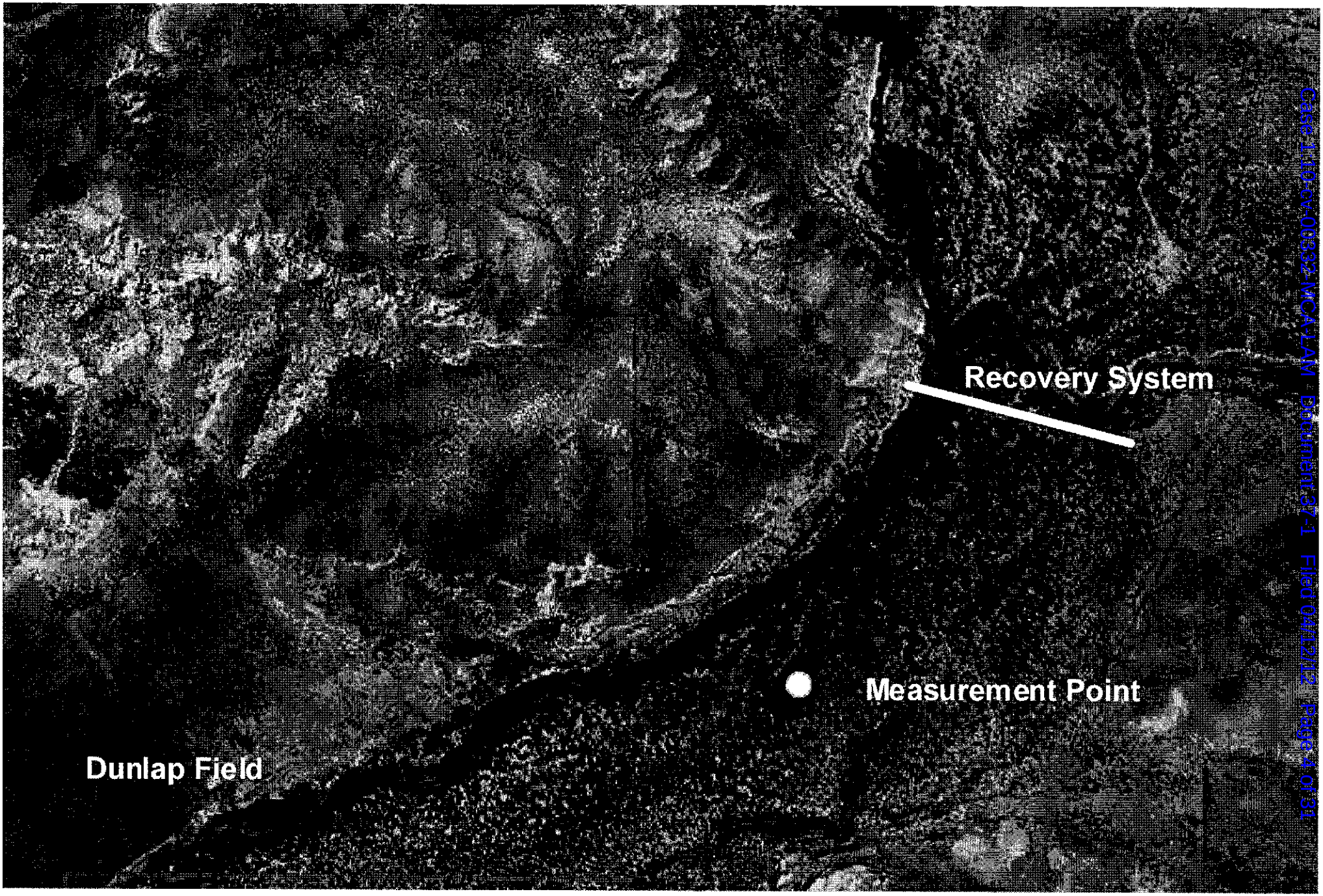

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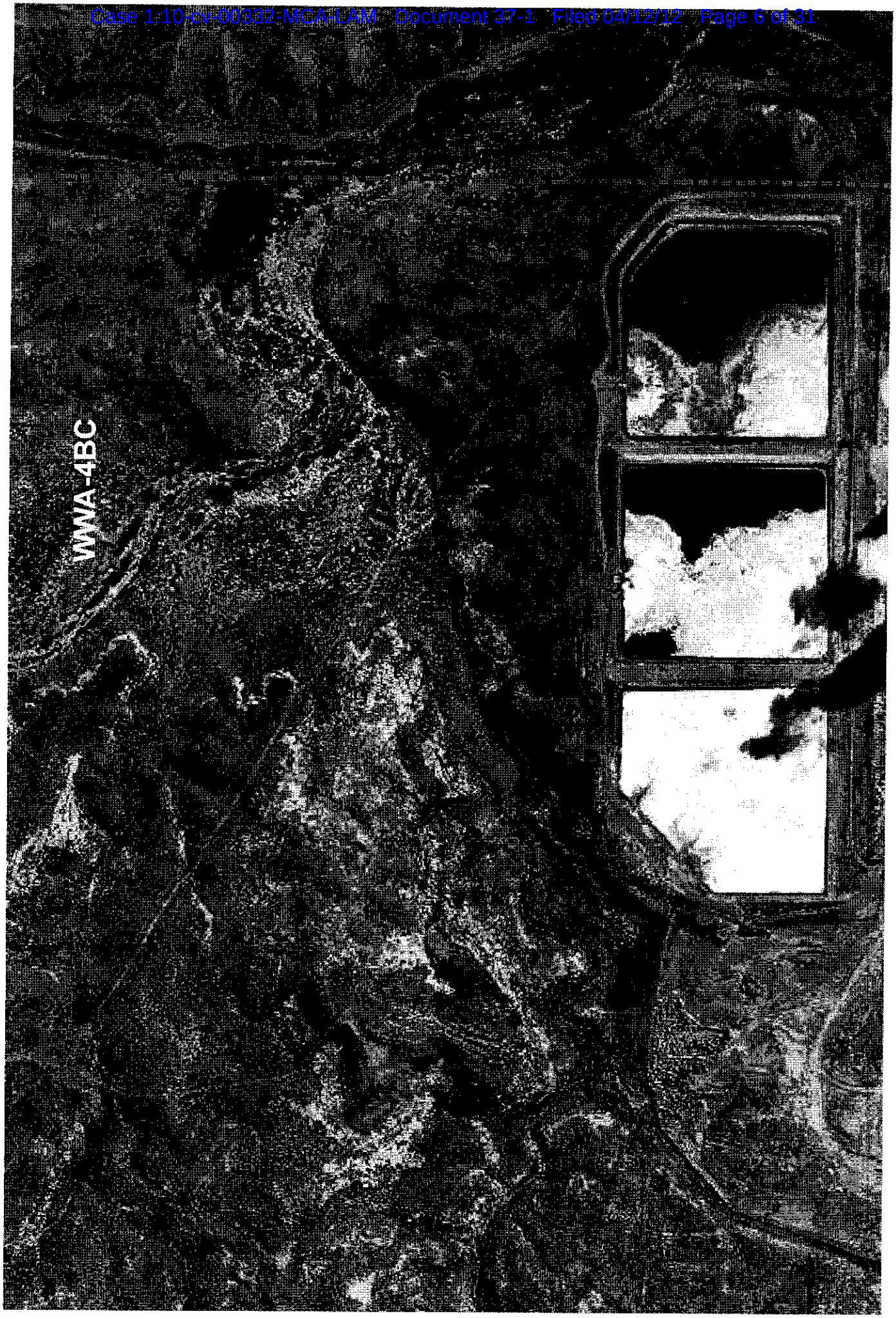
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EXHIBIT 4

SUPPLEMENTAL ENVIRONMENTAL PROJECTS

In accordance with Consent Decree Paragraph 61, the Companies shall fund the following supplemental environmental projects ("SEPs") in the total amount of $1,000,000:

Project Description	Funding Recipient	Amount
San Juan River Ecosystem Restoration Project	The Nature Conservancy and the Navajo Nation	$400,000
Microbial Source Tracking Study and BMP Implementation	San Juan Soil and Water Conservation District as Section 501(c)(3) funding manager for the San Juan Watershed Group and Animas Watershed Partnership (using University of New Mexico as contractor)	$500,000
Selenium Source Study	San Juan Soil and Water Conservation District as Section 501(c)(3) funding manager for the San Juan Watershed Group and Animas Watershed Partnership (using Keller-Bliesner Engineering as contractor)	$100,000
TOTAL		**$1,000,000**

These projects are more fully described in Sections I through III, below.

For each SEP, one or more of the Companies shall enter into a contractual arrangement with the funding recipient(s) within thirty (30) days of entry of the Consent Decree, which will provide for: (1) cost accounting oversight; (2) appropriate project completion deliverables suitable to demonstrate that the SEP funds have been expended as required by the Consent Decree; and (3) an opportunity for public review and comment on project planning documents. If for reasonable cause the contract with the funding recipient(s) is not completed within thirty (30) days of entry, then the responsible Company or Companies shall notify Sierra Club in writing of the delay, the reasons for the delay, and a time within which the contract shall be executed. The Companies shall pay the recipient(s) the full amount of the project SEP within

thirty (30) days of executing the contract with a copy of the contract and payment provided to Sierra Club.

I. SAN JUAN RIVER ECOSYSTEM RESTORATION PROJECT

A. Project Background

The Nature Conservancy ("TNC") and its partners are working under the guidance of the San Juan River System Conservation Action Plan ("CAP") to restore water quality, river and floodplain habitats, and healthy flows to the San Juan River. The CAP was developed in collaboration with seventeen organizations and has led to restoration work at strategic locations along the river mainstem on the Navajo Nation. The project's vision for the basin, developed with the seventeen groups representing in the CAP process, is for conservation of a dynamically functioning river system with healthy riparian and aquatic ecosystems supporting native fish and the southwestern willow flycatcher. The partners who participated in this planning effort aim to preserve the aquatic and riparian diversity of this great southwestern river by restoring ecological communities and natural processes, controlling invasive species, and improving water quality and connectivity for key native species.

The scope of the San Juan River Ecosystem Restoration Project, which was initiated in 2010 following completion of the CAP, includes the entire 186-mile reach of the river between Navajo Dam and Lake Powell. The project's objectives are to (1) restore floodplain and riverine habitats for native plants and wildlife; (2) restore natural river processes that sustain these habitats; and (3) develop scientific information about historical ecological changes in the river and its watershed as the basis for long-term, sustainable conservation.

The cost of project's first phase was approximately $600,000, of which $370,000 was provided by the New Mexico Environment Department's River Ecosystem Restoration Initiative. The budget for the project's second phase, as described below, is $441,600, of which $400,000 will be funded as a SEP.

B. Scope of Work

1. Objective #1: Restore San Juan River channel morphology, floodplain habitats, riparian vegetation and water quality at strategic locations along the San Juan River's mainstem

TNC and the Navajo Nation are currently completing a pilot river channel and habitat restoration project at six sites on the Navajo Reservation on lands under the jurisdiction of two chapter houses, in collaboration with the San Juan River Basin Recovery Implementation Program, a public-private partnership coordinated by the U.S. Fish and Wildlife Service. The current project is underway and will be successfully completed in mid-2012. The project approach is to recreate backwater and slackwater channels that have been greatly reduced in extent since the construction of Navajo Dam. The project will also mechanically remove non-native trees from each site, and replace them with native cottonwood and willow.

The project is designed to allow the river access to its historical floodplain and secondary channels and backwaters and allow sediment to disperse and settle. The results are lower turbidity, more and better nursery and spawning habitat for native fish, and recovery of native vegetation that provides habitat for a host of Neotropical migratory birds, including the endangered southwestern willow flycatcher. The project may also have beneficial impacts on water quality by fostering the development of wetlands that remove industrial contaminants and excessive sediment through biofiltration.

The project partners are now planning a second phase of active river and floodplain restoration for 2012 through 2014, expanding this effort to four to six new sites, strategically located on the mainstem of the San Juan River on the Navajo Reservation. The project will build on knowledge gained in the first phase to improve both design and implementation. The new restoration sites will be designed to be largely self-sustaining in the context of a dynamic river system, and to work well with the environmental flow releases described under the next objective.

This proposal involves the restoration of four to six sites, comprised of approximately four miles of secondary channel and backwater habitat and 6 acres of riparian vegetation, at a total cost of $350,000, including project design, implementation, monitoring, and management.

Methods. At each site a combination of four restoration methods will be used, depending on site conditions:

1. Secondary channel flushing (channel sluicing)
2. Mechanical clearing/chemical treatment of invasive species
3. Secondary channel inlet re-establishment and cleaning
4. Excavation of new secondary channels

At all sites, native shrubs and trees will be replanted, and the sites will be maintained over time through repeated treatments, if necessary.

Schedule and Budget. Sites will be selected in the last quarter of 2012, based on the results of the assessment described under Objective #3. Design and permitting will be completed by the third quarter of 2013. Construction will begin in the third quarter of 2013 and be

completed by the end of 2014, including replanting of native vegetation and monitoring for native fish utilization. TNC expects to expend $348,000 on this objective.

2. ***Objective #2: Design of environmental flow releases from Navajo Dam for the San Juan River ecosystem conservation***

Restoration of healthy flows—the high flow and low flow pulses that characterize a living river, and that provide environmental cues to riverine and riparian plants, animals and natural communities—is critical to ecological restoration of the San Juan River, whose flows have been heavily regulated since completion of the Navajo Dam in 1961. Flow alteration by dams has cascading ecological effects, including channel simplification and invasion by non-native plants and animals. Many of these effects are reversible through restoration natural peaks and troughs in a river's natural flow cycle. Partial restoration of the San Juan's natural flows by the Bureau of Reclamation since the early 2000s has been ineffective in meeting even the most modest ecological goals. New environmental flow recommendations are badly needed to restore river processes and functions.

The Nature Conservancy has been asked to provide strategic and technical support to the San Juan River Basin Recovery Implementation Program (SJRIP) in developing new flow recommendations. TNC's freshwater conservation scientists will work closely with the U.S. Fish and Wildlife Service, the Bureau of Reclamation, the SJRIP, and San Juan River Basin stakeholders to design and implement a time-tested process for developing new e-flow recommendations that will subsequently be integrated into the operation of Navajo Dam. The SJRIP plans to complete these flow recommendations by the end of 2013, with experimental implementation to begin in 2014.

Methods. Conservancy scientists from Colorado, New Mexico, and our North America Freshwater Program will work with counterparts in the U.S. Fish and Wildlife Service and Bureau of Reclamation to:

1. Design an adaptive management framework for a new environmental flow program, identifying critical assumptions and hypotheses and designing science-based monitoring approach.
2. Design and implement flow-ecology workshops in which biologically effective components of healthy flows are identified and prescribed.
3. Document and explain new environmental flow recommendations for operation of Navajo Dam, to be tested and implemented subsequently through the SJRIP partnership.

Schedule and Budget. The Conservancy plans to work with the SJRIP to complete new flow recommendations by the end of 2013, with experimental implementation to begin in 2014. TNC expects to expend $27,000 on this objective.

3. ***Objective #3: Assess changes in the San Juan River channel and floodplain since completion of Navajo Dam, and strategically identify sites along the river mainstem where channel, floodplain, and habitat conservation are feasible and sustainable (in combination with environmental flows)***

Restoration of river structure, function, processes and habitats at a scale large enough to make a difference requires strategic focus, a multidisciplinary approach, and multiple tools. Neither environmental flow restoration nor physical channel and floodplain restoration, the approaches described under Objective #1 and Objective #2 above, will succeed in isolation. Even when combined, these approaches may not succeed if they do not take into account historical

ecology and fluvial geomorphology, and if they are not guided by a science-based strategic plan. This project will be the first-ever assessment of 20th century changes in river channel and floodplain structure, and will be used to pragmatically identify suitable sites for the second phase of river restoration activity described under Objective #1.

Methods. TNC will conduct this assessment in consultation and cooperation with Natural Heritage New Mexico, University of New Mexico's Earth Data Analysis Center, Colorado State University, and members of the SJRIP. Steps include:

1. Locating and archiving aerial and satellite imagery from the mid-1950s to present.
2. Digital classification and mapping of native and non-native vegetation and river and floodplain landforms.
3. Identification of patterns of change, and assessment of ecological cause and effect in river and floodplain vegetation and landforms.
4. Identification of sites suitable for restoration due to their landscape position, current and past condition, and potential for persistence based on river geomorphological dynamics.

Schedule and Budget. The Conservancy plans to complete this assessment and identify sites by the last quarter of 2013, in order to provide restoration site recommendations for the habitat restoration phase. TNC expects to expend $25,000 on this objective.

II. MICROBIAL SOURCE TRACKING STUDY AND BEST MANAGEMENT PRACTICES IMPLEMENTATION

A. Project Background

In 2002 and 2010, the New Mexico Environment Department ("NMED") found reaches of the Animas, La Plata, and San Juan Rivers and several tributaries to have *E. coli* levels exceeding the limits for safe human contact. This finding led to impairment listings for each of the three rivers on the Clean Water Act Section 303(d) list. A microbial source tracking ("MST") study is an important first step in remedying bacteria pollution in these systems as it will identify the animal group source(s) responsible for pollutant loading.

B. Scope of Work

The MST study will be prepared and conducted according to generally accepted microbial sampling and analysis protocols. This project will be administered by the San Juan Watershed Group ("SJWG") in consultation with the Animas Watershed Partnership ("AWP"). Dr. Geoffrey Smith, Professor of Environmental Microbiology at New Mexico State University and proprietor of GBS Environmental, will serve as the technical lead for the MST study. Dr. Smith has been the lead on several MST studies for other New Mexico streams listed for excessive *E. coli* levels, and will oversee all data analysis and final reporting. The results from this study will be disseminated to the public through public meetings and SJWG hosted website.

The results from the MST study will be used by SJWG, AWP, and other stakeholders to develop and target best management practices ("BMPs") and to prioritize remedial actions to be undertaken as a component of the SEP.

C. Budget

It is expected that $240,000 will be expended for the microbial source tracking study, and $90,000 will be expended for GIS system updates and public outreach. It is expected that $170,000 will be expended on implementing prioritized remedial actions recommended by the study.

D. Additional Funds Available

To the extent that funds designated for the selenium source study in Section III, below, are not fully expended, any excess funds will be used to implement additional best management practices under this Section.

III. SELENIUM SOURCE STUDY

A. Project Background

There is increasing concern over water quality in the San Juan River and its potential effects on fish, wildlife and human health. Application of irrigation to selenium-rich soils, such as those that occur within the NAPI, Hogback, and Cudei Irrigation Districts, can dissolve and mobilize selenium and create hydraulic gradients that result in the discharge of selenium-contaminated groundwater into irrigation drains and natural waterways. The majority of water used for irrigation of non-commercial agricultural land in the San Juan Basin is conveyed through unlined infrastructure and is applied using flood irrigation practices. These conveyance and irrigation practices have inherent low efficiencies which enhance mobilization of selenium and other soluble salts. Effective tools are available to increase efficiencies and reduce selenium and other pollutant loading to the San Juan River. However, there is limited quantitative data available on the irrigation practices, soils, conveyances, and returns that are the largest pollutant

sources. This study would identify selenium loading sources within the Hogback and Cudei Irrigation districts.

The results from this study will be used to identify sources of selenium loading resulting from irrigation practices and erosion from agricultural land use changes to establish a baseline accounting of selenium loading and prioritize the implementation of efficiency improvement and pollutant loading reduction projects from irrigation practices.

B. Scope of Work

1. Task 1—Organize Stakeholder Meeting

As the initial study task, organization of a stakeholder meeting will be conducted in order to present the objectives of the source study and to identify individuals, agencies and entities that are knowledgeable resources for the study that possess data relevant to the completion of the study. Stakeholders will include governmental agencies, Navajo Nation, irrigation districts, SHWG, SJBRIP, and other non-governmental entities or water user groups that participate in forums involving area water quality and quantity. Stakeholders will be regularly updated on the progress of the study and informed of any data shortcomings or obstacles.

2. Task 2—Existing Data Review and Compilation

This task will involve the review of existing information and analytical data available within the study area. Selenium has been measured in surface water, groundwater, sediment, soils, and biota collected from various locations within the study area. These data will be compiled into a database for the study area in a tabular format. The table will, at a minimum, include the data source, a brief description of the data, matrix, and the sampling location identifiers for that dataset. Much of this data is expected to be on file with the U.S. Fish and

Wildlife Service (USFWS), the Natural Resources Conservation Service (NRCS), the Bureau of Indian Affairs (BIA), the NMED, the New Mexico State Engineers Office, the U.S. Geological Survey (USGS), the Environmental Protection Agency (EPA), the Navajo Nation Environmental Protection Agency (NNEPA), and from a variety of other governmental and non-governmental sources.

3. *Task 3—Review, Compile, and Organize Spatial Analysis Data Relevant to the Identification and Mapping of Selenium Sources*

In conjunction with the data review, a review and compilation of relevant GIS information within the study area will be conducted. There is a vast amount of spatial data available for the San Juan River Watershed. The review would identify relevant base layers including aerial imagery, digital elevation models, GAP vegetation data including agricultural fields, and topographical maps. Hydrology data would include the National Hydrologic Dataset; USGS stream gauges, watersheds for the San Juan River Basin, precipitation data, and water quality data from various state, federal, and tribal agencies.

Soil and geology map types for the San Juan River Basin NRCS would be compiled highlighting those types noted for high selenium content, such as those derived from cretaceous aged geologic materials, or high erosion potential. There will be components of the analytical data review that will not have corresponding spatial data and that will be identified in the task along with any notable data gaps. All relevant data would be compiled in a GIS geodatabase and map template for use in subsequent tasks modeling likely point and non-point sources of selenium.

4. Task 4—Development of a Study Plan

Compile all data from tasks 1 through 3 and develop a comprehensive study plan for identifying the sources of selenium loading in the San Juan River. A comprehensive study cannot be developed adequately without the results from Tasks 1 through 3. Once those tasks are complete, a study plan would be developed and data collection tasks such as those outlined in Task 5 would be identified along with the corresponding budget for each task. The study plan may expand upon the data collection outlined in Task 5. The ultimate goal of the study plan is to provide sufficient information for the development of a numerical loading model in Task 6. Under this task the contractor would prepare a study plan based on the available data identified in Tasks 1 through 3. The plan would include a description of data collection and data analysis anticipated be completed under Task 5. Approval of the study plan would be the responsibility of the San Juan Watershed Group.

5. Task 5—Data Collection and Analysis

This task would likely include the tasks listed below and potentially others identified in the study plan (Task 4): (1) build a conceptual transport model to the receptor water way (San Juan River), identifying the potential largest contributors; (2) map the hydrologic (surface and ground water) basins in the study area; (3) use existing NRCS and USGS studies to assign potential Se concentrations to regional soils/formations; (4) field verify the irrigation and cropping practices on the ground; and (5) devise a field investigative program to corroborate/fill in the gaps of the conceptual model at key locations.

6. Task 6—Develop a Numerical Loading Model

Develop a numerical loading model of the whole system that quantifies the Se loading from all the sources in the conceptual model. Calibrate it to measured Se concentrations in the receiving water (San Juan River). This would be done in such a manner that not every loading source in the system would have quantifiable data, but use the known information to identify the potential at the unknown sources.

7. Task 7—Prepare Source Study Report

The report will include a description and mapping of selenium inventory in the study area including land use changes and selenium mobilization. The report will include an inventory and description of mechanisms of selenium movement through the system; sources and loads; an evaluation of the data, including identification of data gaps and recommendations.

C. Budget

It is expected that $100,000 will be expended on the selenium source study. Once a detailed cost proposal is generated, the individual tasks will be managed (and in some cases, as may be necessary, eliminated) to conform to the SEP budget.

EXHIBIT 5

ENVIRONMENTAL RESTORATION PROJECTS

The Environmental Restoration Projects hereunder may augment or supplement one or more of the Supplemental Environmental Projects set forth in Exhibit 4. Subject to the provisions and limitations of Paragraphs 62, 63, and 64, the following Environmental Restoration Projects will be funded in the following order and for the following dollar amounts.

I. SAN JUAN RIVER SYSTEM CONSERVATION ACTION PLAN

A. Project Background

The Nature Conservancy ("TNC") and the Navajo Nation are working under the guidance of the San Juan River System Conservation Action Plan ("Plan") to restore water quality, floodplain habitats, and riparian vegetation at strategic locations on the San Juan River. The Plan was developed in collaboration with seventeen organizations and has led to restoration work on the Navajo Nation. The project's scope is basin-wide and may be expanded to include the entire mainstem of the San Juan River between the Navajo Dam and Lake Powell. TNC estimates that the total project cost is $700,000, of which $370,000 is being provided by the New Mexico River Ecosystem Restoration Initiative. Any contributions to the unfunded amount of the budget will help complete this project.

B. Project Funding and Scope

This project will be funded in the amount of **$250,000.**

TNC, the Navajo Nation, the US Fish and Wildlife Service, and the United States Bureau of Reclamation are currently undertaking a project at six sites on the Navajo Reservation on lands under the jurisdiction of two Navajo Nation chapter houses. This project will promote

restoration of the San Juan River to its historical floodplain and secondary channels and backwaters and allow sediment to disperse and settle. The objectives of this project include lower turbidity and more and better nursery and spawning habitat for native fish. The project may have a positive impact on mitigating pollution by creating backwater areas where toxic elements would be deposited (rather than flowing downstream) and potentially cleaned by the biofiltration of the wetlands in this area. The current project at the six sites is underway. The project would involve expanding these existing river restoration and water quality activities to up to four additional sites on the Navajo Nation and/or Bureau of Land Management and private lands. The project represents an extension of an existing project and TNC and its partners are prepared to identify the next sites and work with the same contractors to complete the project expansion within three years.

C. Project Performance Metrics

Assessment of this project will include a written report to the Parties addressing the following performance metrics:

1. linear feet of side channel and backwater habitat created;
2. acres of Russian olive and salt cedar removed; and
3. acres of floodplain made newly accessible to the San Juan River.

II. LA PLATA RIPARIAN RESTORATION AND OUTREACH PROJECT

A. Project Background

The New Mexico State Land Office ("SLO") manages several thousand acres of land in the San Juan Basin. This project involves the existing La Plata Riparian Restoration and

Outreach Project that can be enhanced with additional funding. The SLO is currently working with the San Juan Soil and Water Conservation District, the New Mexico Department of Game and Fish, and the United States Bureau of Land Management to reduce the local sediment input, eliminating exotic species, and restoring hydrologic connection with preexisting side channels and wetlands using funding from the New Mexico River Ecosystem Restoration Initiative.

B. Project Funding and Scope

This project will be funded in the amount of **$100,000**.

This project involves efforts by the SLO to reconnect an historic oxbow to the La Plata River, create wetland habitat, and natural biofiltration of water to improve water quality. Restoration techniques will include bank lowering at the oxbow input to allow inundation at lower water levels, and excavating scallops within the oxbow to allow constant groundwater and wetland features. The project is intended to improve water quality by increasing wetland habitat which acts as a filter for sediment and other pollutants. Reconnecting the oxbow to the river is intended to create a longer meandering river path that slows water velocity and increases sediment deposition while also reducing sediment load downstream. The project may include educational initiatives by the SLO in ecological restoration and monitoring.

C. Project Performance Metrics

Assessment of this project will include a written report to the Parties addressing the following performance metrics:

1. number of linear feet of oxbow reconnected to floodplain; and
2. number of acres of new wetlands created.

III. SAN JUAN RIVER RIPARIAN RESTORATION

A. Project Background

The SLO is working to restore natural channel morphology to San Juan River floodplains, eliminate exotic species and restore side channels to create 10 acres of wetlands and enhance water quality.

B. Project Funding and Scope

This project will be funded in the amount of **$250,000.**

This project will involve constructing a side channel and moist soil depressions to facilitate the formation of marshes to encourage natural recruitment of native vegetation in the San Juan River floodplain. Project activities will include restoring the native vegetative component of the riparian ecosystem, including cut-stump treatment of exotic plant species along the river bank (Russian olive, Siberian elm, and salt cedar) and revegetation with native plant species. Water quality will benefit due to the creation of wetland habitat, which will act as a filter for upstream agricultural inputs and other non-point pollutants.

C. Project Performance Metrics

Assessment of this project will include a written report to the Parties addressing the following performance metrics:

1. number of acres of new wetland created;
2. number of linear feet of side channel created;
3. number of salt cedar and Russian olive stems cut and/or rootballs removed; and
4. number of cottonwoods trees and willows planted.

IV. SAN JUAN WATERSHED RIPARIAN BUFFER PROJECT

A. Project Background

The San Juan Watershed Group ("SJWG") was formed in 2001 to study and address water pollution from nutrients, fecal coliform bacteria, sedimentation, temperature, dissolved oxygen and selenium in various stream segments in the San Juan watershed. SJWG's mission is "to protect current and future uses of surface waters in the San Juan Watershed through identification of water quality concerns and by seeking solutions for problems defined." SJWG members include local, state, tribal and federal governments, environmental and other non-governmental organizations (including the San Juan Citizens Alliance), private industry, agricultural producers and concerned citizens. The SJWG has been working with landowners to install sprinkler irrigation to replace flood irrigation. Flood irrigation on grazed fields may result in excess water returning to the river with high bacteria levels. Sprinkler and drip irrigation helps eliminate runoff from farm fields and the discharge of bacteria. The SJWG has only $54,000 over the next 3.5 years in its current budget which will be depleted by funding 8 private landowners that have already applied and qualify for funding. The SJWG works with the Natural Resource Conservation Service's EQUIP program which provides matching funds but the future of this federal funding is uncertain and even at current levels is inadequate to meet the substantial demand by private landowners.

B. Project Funding and Scope

This project will be funded in the amount of **$60,000**.

The primary focus of this project involves converting from flood irrigation to either sprinkler or drip irrigation in farm fields. A secondary focus of the project is to create riparian buffer zones with no grazing next to rivers to promote biofiltration and reduce sediment and nutrients. The SJWG anticipates eight to ten landowner applicants per year.

Assessment of this project will include a written report to the Parties addressing the following performance metrics:

1. number of acres of fields converted from flood irrigation to sprinkler or drip irrigation;
2. number of acres converted to riparian buffer zones; and
3. monitoring *E. coli* bacteria to document actual bacterial loading reductions to the river.

V. SAN JUAN RIVER BACTERIA MITIGATION PROJECT

A. Project Background

The San Juan River is polluted with fecal coliform bacteria which may affect the health of people who swim, raft, and fish the river. Due to stakeholder disagreements on the sources of bacteria (livestock, wildlife, human), little action has been undertaken to address the issue. A watershed-scale effort is being led by SJWG including New Mexico, Colorado, and the Southern Ute Tribe to identify potential bacterial sources and begin addressing the issue.

B. Project Funding and Scope

This project will be funded in the amount of **$75,000**.

Volunteers will be used collect samples from pertinent locations which will be sent to a qualified laboratory for bacterial analyses. Following identification of potential bacteria sources, source reduction strategies will be developed and implemented to reduce bacteria from reaching the San Juan River.

C. Project Performance Metrics

Assessment of this project will include a written report to the Parties addressing the following performance metrics:

1. number of volunteers collecting samples;
2. number of samples analyzed; and
3. identification of bacteria source reduction practices implemented.

VI. SAN JUAN RIVER FISH PASSAGE IMPROVEMENT PROJECT

A. Project Background

The San Juan River Basin Recovery Implementation Program ("BRIP") was established in 1992 to protect and recover the Colorado pike minnow and the razorback sucker in the San Juan River Basin. The U.S. Department of the Interior Bureau of Reclamation, in collaboration with the BRIP, designed and constructed a fish passage facility to facilitate fish migration around the San Juan River intake. This facility became operational in 2004. The operation of the fish passage facility, along with other BRIP program efforts, provides benefits to native fish in the San Juan River. The Navajo Nation Fish and Wildlife Service is responsible for the operation of the fish passage facility. The Navajo community, Nenahnezad Chapter, is the adjacent community that works in cooperation with the fish passage facility.

B. Project Funding and Project

This project will be funded in the amount of **$40,000**.

This project consists of improvement to the existing road from the Nenahnezad Chapter to the fish passage facility and areas immediately surrounding the fish passage facility. The improvements will include grading of the existing dirt road, installation of a streetlight near the entrance to the fish passage facility, installation of an access gate at the entrance of the facility and drainage improvements near the fish pool facility.

C. Project Performance Metrics

Assessment of this project will include a written report to the Parties addressing the following performance metrics:

1. area and nature of road improvements;
2. area and nature of drainage improvements;
3. streetlight installation; and
4. access gate installation.

VII. RECOVERY SYSTEM EXCESS FUNDING AND DEDUCTION FOR FUNDING RECOVERY SYSTEM CLOSURE AND BIOMONITORING

In the event that there remain excess funds over the cost of the Recovery System pursuant to Paragraph 64, the Companies, with the approval of Sierra Club, may increase funding for all or some of the Environmental Restoration Projects listed on Exhibit 5. The Companies shall provide a written proposal for any increased funding for an Environmental Restoration Project to Sierra Club. If Sierra Club agrees, or if there is no objection to the written proposal within thirty (30) days of receipt, the Companies shall provide the additional Environmental Restoration

Project funding as set forth in the proposal. If Sierra Club objects to the written proposal, the reasons for objection shall be stated in writing. The Companies shall thereafter have forty-five (45) days to submit a revised or alternative written proposal for the additional Environmental Restoration Project funding.

If the Companies do not increase funding for the Environmental Restoration Projects listed on Exhibit 5, or if after increasing such funding there still remains excess funding pursuant to Paragraph 64, the Companies shall propose new Environmental Restoration Projects for funding. In order to be considered as an Environmental Restoration Project eligible for funding, the following criteria shall be met:

1. An eligible project must involve improvements to or restoration of environmental or natural resources located within the San Juan Basin; and
2. An eligible entity must be either (a) an existing non-profit organization with an established record of implementing or overseeing projects related to environmental stewardship, improvement or restoration in the San Juan Basin; or (b) a federally recognized Native-American tribe or pueblo with a geographical connection to the San Juan Basin. Notwithstanding the foregoing, any eligible entity may purchase goods and services from for profit entities as necessary to carry out any Environmental Restoration Project.

The Companies shall provide a written proposal for any new Environmental Restoration Project to Sierra Club and SJCC. If Sierra Club agrees, or if there is no objection to the written proposal within thirty (30) days of receipt, the Companies may proceed with the new Environmental

Restoration Project as set forth in the proposal. If Sierra Club objects to the written proposal, the reasons for objection shall be stated in writing. The Companies shall thereafter have forty-five (45) days to submit a revised or alternative written proposal for an Environmental Restoration Project. The review process for any new or revised written proposal shall be as set forth above.

In calculating whether there remain excess funds over the cost of the Recovery System pursuant to Paragraph 64, reasonable amounts shall be deducted to cover the reasonable estimated costs of the closure of the Recovery System and any remaining tasks associated with the biomonitoring programs under Paragraph 62(b).

VIII. CONDITIONS FOR FUNDING

Funding for any Environmental Restoration Project is expressly conditioned on the agreement, in writing, of the designated funding recipient to accept the funding and to implement the Environmental Restoration Project as proposed.